

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 5:19CR30
)	
Plaintiff,)	JUDGE JOHN R. ADAMS
)	
v.)	
)	
DESHAUN A. JONES,)	<u>UNITED STATES OF AMERICA’S</u>
)	<u>SENTENCING MEMORANDUM</u>
Defendant.)	

Now comes the United States of America, by and through its counsel, Justin E. Herdman, United States Attorney, and Christopher J. Joyce, Assistant United States Attorney, and respectfully submits the following memorandum setting forth the United States of America’s position regarding the sentencing for Defendant DESHAUN A. JONES.

Offense Level Computation

The United States agrees with the Offense Level Computation included in the Presentence Report.

COUNT 1: Felon in Possession of Firearm and ammo 922g		
Base offense level (2 Controlled Substance Felony priors)	24	§2K2.1(a)(2)
Stolen firearm	+2	§2K2.1(b)(4)(A)
Used/Possessed firearm in connection with another felony	+4	§2K2.1(b)(6)(B)
Acceptance of Responsibility	-3	§3E1.1(a)(b)
Total Offense level	27	CHC V (120-150 months)

On August 29, 2019, the defendant notified Pretrial Services and the government that he took issue with the Specific Offense Characteristic described in Paragraph 18 of the Presentence Report. More specifically, the defendant denied discharging a firearm into the house located at 823 Huber Avenue in Akron, Ohio. Improperly Discharging a Firearm at or into a Habitation is a felony of the second degree according to Ohio Revised Code section 2923.161(A)(1) and is punishable by imprisonment for a range of two (2) to eight (8) years. As a sentencing consideration for the instant Felon in Possession of a Firearm conviction, the Pretrial Services Officer concluded that the defendant used or possessed a firearm in connection with the felony of Improperly Discharging a Firearm at or into a Habitation, which would result in a four (4) level increase in the defendant's guideline computation.

In anticipation of the defendant's argument at the sentencing hearing, the government is prepared to offer testimony and video evidence in support of the conclusion that the defendant fired a handgun at or into the habitation at 823 Huber Avenue. On October 1, 2018, at the time of the instant offense, the house at 823 Huber Avenue was occupied by a number of people, including children. Immediately after apprehending the defendant, officers from the Akron Police Department knocked on the door of 823 Huber Avenue in order to gather information about what happened. Ivonne West, the defendant's aunt, answered the door and gave the investigating officers a statement as to what she witnessed.

Sadly, Ivonne West passed away on January 24, 2019. Ms. West's description of the events as she witnessed them were preserved on the body worn cameras of the investigating officers. Through the Case Agent, SA Clay McCausland of ATF, the government intends to introduce video of Ms. West's recorded statements. Additionally, the body worn cameras of the investigating officers will show a back window of the residence at 823 Huber Avenue which had

been shot. Through testimony of SA McCausland, the government intends to show that very near that window, a shell casing was discovered which matched the gun that was found in the backyard of 823 Huber Avenue and is the subject of the instant Felon in Possession of Firearm and Ammunition conviction.

Based on the evidence that will be presented at the sentencing hearing, the government will argue that the defendant used or possessed a firearm in connection with the felony of Improperly Discharging a Firearm at or into a Habitation. As a result, the four (4) level guideline enhancement included in the Presentence Report at Paragraph 18 is appropriate.

Recommendation

The Defendant's extensive criminal history, which includes multiple firearm related convictions, calls for a significant prison sentence. However, the defendant's conduct in this case is particularly egregious in light of the fact that the defendant fired a gun at or into a habitation while several people, including children, were in the home. In consideration of the defendant's criminal history and his conduct here, the United States respectfully requests that the Court impose a maximum sentence of 120 months.

Respectfully submitted,

JUSTIN E. HERDMAN
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of September, 2019 a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Christopher J. Joyce

Christopher J. Joyce
Assistant U.S. Attorney